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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,373	01/14/2004	Robert Stieper Milligan	63096.000002	2361

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EXAMINER

CORBIN, ARTHUR L

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 07/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10756313

Applicant(s)

MILLIGAN

Examiner

ARTHUR L. CORBIN

Group Art Unit

1761

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-20 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-20 is/are rejected.
- ☒ Claim(s) 1 is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
 - ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

1. Claim 1 is objected to because of the following informalities: In claim 1, line 6 "to" should be changed to "and", as in claim 12 (a). Appropriate correction is required.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3 and 5-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang (6,455,083, columns 2-4; column 5, line 65 to column 6, line 19; column 8, lines 31-32, and the examples). Wang discloses a pet chew including meat or meat meal, starch flour, vitamins C and E and herbs. The components are present in the amounts claimed by applicant and are formed into the pet chew by blending and injection molding. Finding the optimum animal product particle size(claims 1 and 12) and the optimum molding parameters (claims 14, 15 and 19) would require nothing more than routine experimentation by one reasonably skilled in this art.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wang as applied to claims 1-3 and 5-20 above, and further in view of Gluck et al (6,228,418, column 3, lines 46-47 and column 6, line 56).

It would have been obvious to include cartilage powder in the pet chew of Wang since cartilage powder is a conventional component used in preparing on animal product containing pet chew, as evidenced by Gluck et al.

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5. Claims 1-3 and 5-20 are also rejected under 35 U.S.C. 103(a) as being unpatentable over Axelrod et al (6,586,027, column 2, lines 19-40; column 3, line 9 to column 4, line 30 and column 5, line 52 to column 6, line 10). Axelrod et al discloses a pet chew including animal meal, starch, a copolymer, vitamins C and E and other nutraceuticals in the amounts claimed by applicant. The components are formed into the pet chew by blending and injection molding. Finding the optimum animal meal particle size (claims 1 and 12) and the optimum molding parameter (claims 14, 15 and 19) would require nothing more than routine experimentation by one reasonably skilled in this art.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Axelrod et al as applied to claims 1-3 and 5-20 above, and further in view of Gluck et al.

Gluck et al is applied as in paragraph No. 4 above

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Denesuk et al shows a pet chew including dried beef meal and a copolymer. Levin et al shows an injection molded pet chew. Axelrod et al (6,159,516) shows an injection molded pet chew including starch.

8. Any inquiry concerning this communication from the examiner should be directed to Arthur L. Corbin whose telephone number is (571) 272-1399. The examiner can generally be reached on Monday--Friday from 10:30 to 8:00 p.m..


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A.L. Corbin/dh
July 22, 2004



ARTHUR L. CORBIN
PRIMARY EXAMINER
7-22-04